

Reassessing Solitary Confinement
The Human Rights, Fiscal, and Public Safety Consequences
Commissioner Christopher Epps
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I am Christopher B. Epps, Commissioner of Corrections for the State of Mississippi and President Elect of the American Correctional Association.

I have been the Commissioner for almost ten years. I was appointed by a Democratic governor, Ronnie Musgrove and reappointed by two Republican governors, Haley Barbour and Phil Bryant.

I began my career as a correctional officer at the Mississippi State Penitentiary in 1982. Back then, solitary confinement was sparingly utilized for the most incorrigible and dangerous offenders. There was limited cell space available for this specialized population. The tragic murder of a correctional officer in 1989 prompted the construction of Unit 32 at the Mississippi State Penitentiary in Parchman. Unit 32 was a 1,000 bed maximum security unit where all the inmates were in lockdown in single cells for 23 or 24 hours a day, 7 days a week. The unit was opened in 1990 and operated as a single-person celled, administrative segregation unit.

Administrative segregation is used for inmates considered a threat to staff, other inmates, or property. These inmates are placed in a single cell for 23 hours a day during weekdays and 24 hours a day on weekends and holidays. During this time, I was the Deputy Superintendent for Operations at the Mississippi State Penitentiary, and I believed administrative segregation was necessary to isolate offenders to provide a safe and secure environment for staff and offenders. I was convinced that an offender should remain in administrative segregation until he demonstrated over a period of time that his behavior had changed and he was no longer a threat to staff, other offenders, and public safety. In many cases this could be for years, and for some, not until their release from prison or death.

Unit 32 began to be recognized as the end of the road by staff and offenders in the Mississippi Department of Corrections. The prison was easy to enter but it was almost impossible to obtain release without exemplary behavior. Staff took the approach that finding reasons to keep offenders in administrative segregation versus finding reasons to release an offender was best to maintain a safe and secure environment. "Truth in Sentencing" laws requiring offenders to serve 85% of their sentence regardless of their behavior and increased incarceration of mentally ill individuals compounded the situation of hopelessness at the prison. Young offenders involved in gangs with long sentences became a large percentage of the population. Offenders began to see Unit 32 as a place where you were housed in a cell without air-conditioning, 23 hours a day, with minimal interaction with others. The environment created a situation where the norm was to be disruptive as there were no incentives to change behavior. As one offender told me, "you took

all our hope and we have nothing to lose.” Unit 32 conditions of confinement were increasingly litigated with a 2003 Consent Decree regarding Death Row offenders in *Russell v. Mississippi Department of Corrections (MDOC)*, and a second Consent Decree in May 2007 for other administrative segregation offenders in *Presley v. MDOC*. Beginning in May 2007, violence began to erupt at Unit 32 and continued through the summer with 3 homicides, many serious disruptive incidents, and a suicide. I began to realize a need for change. A different approach was needed due to the deteriorating and dangerous environment and increased litigation. The good intention of utilizing large administrative segregation units in the Mississippi Department of Corrections was no longer effective. We needed a different approach.

We began to reform Unit 32 by thinking outside the box and recognizing the need to utilize all available resources. The smartest decision I made was utilizing recognized corrections experts provided by the National Institute of Corrections and the American Civil Liberties Union. My staff and I began to collaborate with the plaintiffs’ attorneys to cease a previous attitude of conflict and discord and jointly determine strategies that would achieve a common goal of improved conditions while providing safety and security. Dr. James Austin, the *Presley v. MDOC* plaintiffs’ expert, was an invaluable resource in developing a classification model with objective criteria for placement in administrative segregation and a documented individualized plan for each offender on how to work his way out of administrative segregation. The individualized plan utilized objective criteria, involved the offender, and required face-to-face reviews to discuss progress. Every offender knew exactly what he had to do to obtain his release from administrative segregation and/or increase his privileges. We developed specific administrative housing units for the mentally ill with specially trained correctional officers.

We also implemented multi-disciplinary teams to make decisions regarding mentally ill offenders. We developed administrative segregation programs enabling offenders to have graduated incentives with promotions through phases until the majority could be ultimately released from administrative segregation. We made sure that before anyone was released from prison, they went through the step-down unit before they got to general population. Group counseling, alcohol and drugs, life skills, and anger management programs were started for offenders. Group counseling was conducted outside the cells by using an innovative method of attaching leg restraints to a floor restraint. This provided the necessary security to allow face-to-face interaction between offenders. For those offenders who could not be released from administrative segregation because of a lengthy history of violence, gang leadership, escape, or other serious reasons, programs were developed that simulated a general population environment in a high-security setting. We reviewed all offenders at Unit 32 utilizing the revised classification model for administrative segregation. We also eliminated the practice of utilizing subjective decisions to place and keep offenders in administrative segregation.

The Mississippi Department of Corrections administrative segregation reforms resulted in a 75.6% reduction in the administrative segregation population from over 1,300 in 2007 to 316 by June 2012. Because Mississippi’s total adult inmate population is 21,982 right now, that means

that 1.4% are currently in administrative segregation. The administrative segregation population reduction has not resulted in an increase in serious incidents. The administrative segregation reduction along with the implementation of faith-based and other programs has actually led to 50% fewer violent incidents at the penitentiary.

The Mississippi Department of Corrections was able to close Unit 32 in January 2010 due to the reduced administrative segregation population, resulting in an annual savings of approximately \$5.6 million. The reforms also resulted in a dismissal of the *Presley v. MDOC* lawsuit in August 2011. We now have a recidivism rate of 27% over a 3-year period, which is one of the lowest in the country, and it is due to our programs such as Adult Basic Education, vocational school, alcohol and drug programs, fatherhood education, and pre-release programs, as well as our reentry programs.

These reforms were successful because all persons involved had buy-in. Staff at all levels and the offender population were educated and understood what the reforms were and why they were being implemented. Leadership from the Central Office was deployed on-site to actively participate in implementing reforms, which prevented an attitude from field staff that decisions were being made from “higher ups” without any knowledge of what was really going on at Unit 32. I made frequent visits to Unit 32 to demonstrate my commitment to and involvement in implementing the reforms, listening to the concerns of staff and the offender population. Collaboration between all was essential to the success of the reforms. This included management, line staff, offenders and *Presley v. MDOC* plaintiff attorneys and their experts.

I often say, “You have to decide who you are afraid of and who you are mad at” when making decisions on the use of administrative segregation in prison. Almost 95% of all offenders will return to society. There are a very small number of offenders who have to be in administrative segregation because of their continued threat to staff and offenders. These are the offenders we are “afraid of” because of their demonstrated violence or threats to the public. Corrections professionals and the criminal justice system must be careful not to use administrative segregation in prison to manage those who we are mad at because this is an expensive option that takes away resources from important government areas such as education, human services, healthcare, etc., which are the services most needed to make a better society.

Corrections is no different than anything else in our nation; it continues to change and improve. Corrections leaders must realize that to be successful you must always be willing to change and listen to all stakeholders involved in the criminal justice system. You cannot take a one-sided approach. I have been most successful when I have made decisions that were in the best interest of all. We must continue to climb the corrections mountain.

Thank you for the opportunity to appear before the Subcommittee.